

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 19

WASHINGTON DEMILITARIZATION COMPANY¹

Employer

and

Case 36-RC-6105

INTERNATIONAL UNION OF OPERATING
ENGINEERS, LOCAL 701, AFL-CIO²

Petitioner

and

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS LOCAL 112, AFL-CIO

Intervener

DECISION AND ORDER

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board, hereinafter referred to as the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding, the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.

3. The labor organization involved claims to represent certain employees of the Employer.

4. A question affecting commerce no longer exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

¹ The name of the Employer appears as corrected at hearing.

² The name of Petitioner appears as corrected at hearing.

All employees in the Operations, Technical Support Services and Maintenance departments employed by the Employer at its Umatilla, Oregon, facility; but excluding all office clerical employees, guards and supervisors as defined by the Act, and all other employees.

The Employer is engaged in operating a chemical weapons disposal facility in Umatilla, Oregon, pursuant to a contract with the United States Department of Defense. Petitioner seeks a unit including all employees in the operations department, including outside operators, plant operators (also known as control room operators), senior operators, and lead operators. The Employer contends that maintenance department employees and technical support services employees must also be included in the unit. In addition, the Employer contends that lead employees are statutory supervisors. International Brotherhood of Electrical Workers, Local 112 intervened in the hearing solely for the purpose of taking the position that the requested unit is an appropriate unit, and to state it does not seek a place on the ballot.

Petitioner, Intervenor, and Laborers' International Union of North America, Local Union 121³ entered into a Memorandum of Understanding on April 4, 2001, in which they agreed to a joint effort to represent employees at the Umatilla Chemical Disposal Facility. By the terms of memorandum, Intervenor IBEW agreed to exclusively seek employees in maintenance, training, and technical support services;⁴ Petitioner agreed to seek only those employees in system engineering and operations; and Laborers agreed to seek only employees in a long list of other departments.⁵ Petitioner is not interested in proceeding on any unit but an Operations-only unit.

The facility involved herein is not yet operational. Construction was completed in August 2001. Currently, the facility is in the "systemization" phase, which involves testing to demonstrate the functionality of the systems that were constructed. Trial operations will start about April, 2002. The operational phase is scheduled to begin in about February 2003 and will last 70 months, until about November 2008. During the operational phase, chemical weapons, which have heretofore been stored at a nearby United States Army Depot, will be brought into the facility and processed along an automated disassembly line, during which the toxic chemicals will be removed and incinerated.

The Employer recently completed similar operations at Johnson Atoll in the Pacific Ocean about 800 miles southwest of Hawaii. Many of the witnesses who testified in the instant hearing had prior experience at Johnson Atoll, and much of the testimony regarding the job duties of the various classifications of Umatilla employees is not about what work the employees in these classifications *are* performing, but what work they *will* perform beginning in 2003. In other words, much of the testimony in the instant hearing is really about what happened at Johnson Atoll and will (generally) take place at Umatilla. The record does not establish that the Umatilla facility will in all relevant respects operate exactly the way the Johnson Atoll facility operated, but all parties seem in agreement that upcoming full-scale operations be fully considered in the unit determination. Moreover, no party objected to Johnson-Atoll-experience testimony as irrelevant to determining the ultimate operation of the Umatilla facility, or to the unit determination.

At hearing, the parties agreed that the Employer is not contending that the unit proposed by Petitioner is inappropriate now on the grounds the Employer will be doing something different in 2003;

³ Laborers currently represents a unit of warehouse employees represented by the Employer. It does not seek to participate in any election herein.

⁴ Intervenor IBEW, a limited intervenor, does not seek to participate in any election herein. It merely intervened to support the Petitioner's unit proposition.

⁵ I, of course, am not constrained by the labor organizations' agreement.

and that Petitioner is not contending that the unit proposed by the Employer is inappropriate now on the grounds that the issue is what the employees are doing now and not what they would be doing in 2003. In other words, the parties agreed that the appropriate unit in the current start-up mode, and the full-operations mode should be identical.

At present, the Umatilla plant is engaged in a number of tests of each individual system component, including demonstration of the actual continuity of wires and equipment, and calibration of instruments. By the end of March 2002, it is expected that the facility will begin doing surrogate trial burns, using surrogate materials which are more difficult to destroy than the chemical agent itself, to demonstrate the effectiveness of each furnace of the entire incineration facility, as well as the pollution abatement systems that filter effluent from the incineration process. The actual munitions will be destroyed in three separate stages, beginning with those considered to be of highest risk, the JG rockets, followed by VA rockets, then the less risky munitions such as projectiles and bulk containers, bombs, and ton containers, and then, eventually, mines. The facility is intended to destroy 11.6 percent of the nation's stockpile of chemical weapons. The "agent" referred to in the record, and herein -- the *raison d'être* of the facility -- is a liquid, chemical weapon that is delivered via various methods.

The Umatilla facility is under the overall direction of Project Manager Loren Sharp. A number of managers report to Sharp, including the Plant Manager, Phil Harness. Under Harness are various departments in the plant, including operations, engineering, systems engineering, automation, training, maintenance, technical support services (TSS), laboratory, emergency preparedness, and others.

In the operations phase, the facility will operate 24 hours a day, seven days a week on four shifts: A, B, C, and D. Currently there are about two and one-half crews, and almost all employees are working the daytime shift only. Operators are working 12-hour shifts, three or four days a week. Technical support services employees are working four ten-hour shifts per week. Although the testimony is not precise, a fair reading of same coupled with the fact that 24-hour coverage will be required of all three departments to run the facility in a 24/7 mode, warrants the conclusion that Technical Support, and Maintenance will also be on an ABCD-shift arrangement, with 12-hour shifts, roughly 3 days on, 4 days off, in the same manner as Operations clearly will.

The operations department is under the direction of operations manager Mike Strehlow and assistant operations manager Joe Gonzales. Reporting to Strehlow are A shift superintendent Bob Walker and C shift superintendent Clyde Braun. (The positions of B and D shift superintendents are currently vacant.) Reporting to Walker (A shift) is a control room supervisor position (currently vacant), and six control room operators; plus an area supervisor, Kurt Petersen; two lead operators, John Lawhead and Thomas Pearce; and 14 outside operators. On the B shift, control room supervisor Rick Romero reports to the vacant shift superintendent position, and seven-control room operators report to Romero. Also reporting to the B shift superintendent is area supervisor Jeff McCanch. Three lead operators report to McCanch, as do 14 outside operators. Reporting to Braun (C shift) is control room supervisor Doug Wisehart, who has seven control room operators reporting to him, and area supervisor Lee Schmitt, who has two lead operators and 16 outside operators reporting to him. On D shift, both the shift superintendent and the control room supervisor positions are vacant. Nevertheless, there are six control room operators on that shift. There is also an area supervisor, Tony Hood, who has two lead operators and 13 outside operators reporting to him.

Operations department employees are divided generally into "inside" operators and "outside" operators. Inside operators are or will be control room operators when the facility is operational. ("Operational" is also referred to as "hot.") Outside operators will be engaged in unloading the containers of weapons from trucks, unpacking them, and placing the weapons on a conveyor system to be processed. The actual processing of the weapons -- the removal and incineration of the agent -- will occur inside the

plant in building 383 (the Munitions Demilitarization Building, or “MDB”), a two-story building about the size of a football field, and will be performed by robotic devices. As such, operation of the “dis-assembly line” will be largely automatic. However, the inside personnel will monitor and control the operation remotely. No employee will be stationed in the MDB. It will, however, be necessary for personnel to make what are called “entries” [infra] into the MDB, to perform preventive maintenance, repairs, cleanup or other tasks.

In basic terms, the “de-production line” in the MDB operates without constant human presence. However, the building must be entered in mid-operation for maintenance, clean up, adjustments, repairs etc. Entry into the most dangerous areas, where liquid agent is present, calls for extremely elaborate “Level A” procedures. Entry into other less dangerous areas, where the agent is not present in a liquid state, calls for lesser, “Level B” procedures.

Cleanup and certain other routine procedures in the MDB are generally an Operation function. It is the function primarily of Maintenance to perform maintenance “fix” operations within. Technical Support Services’ primary function is to assist the suiting up and un-suiting of those who perform Level A entries, as well as to function as backups for those performing such entries.

Level A entries are limited to a max of one entry per day for any one person, for a max of 2 hours. It takes an additional hour to get suited up and another hour to be cut out of the suit upon completion. To perform a Level A entry requires a two person “buddy” team inside, two persons outside as backups, at least two assisting in the suiting/de-suiting operation, and monitoring personnel in the control room. TSS controls the activity in preparation for entry, while Operations controls all activity within the MDB. The decision to schedule an A entry, the tasks to be performed, and the identity of the taskers, is a joint decision among Operations, TSS and Maintenance.

Level A entry calls for performance of as much work as can be accomplished within the two hours, of whatever nature that the two persons can perform, regardless of to which department such tasks “belong”. This is because of the time and expense involved in an entry operation. The persons entering could be maintenance, technical support or operations, or any combination thereof, depending on what needs to be accomplished, individual skills, availability of various personnel. The assigned tasks can be changed during an actual entry.

There will be about 7 Level A entries per day, every day. The record is quite unclear about the exact dispersal of the Level A entry work over time among the three departments. There was testimony that 30% of entries involve *an* operations person, 25% *a* TSS person, 70% *a* maintenance person, 10% “all others”. This, unfortunately, does not account for the second person in each such entry; it deals only with *a* of a two person crew. Moreover, this totals 135%.

There was a leading, computational guesstimate, based on one witness’ personal experience at Johnson Atoll, that an “average” employee in these three groupings might spend a total of 3% of his time on Level A entries. However, the inside work is not spread evenly over the three groups, or individuals therein.

“Level B” entries require limited protective gear and permit teams of two or more. Eighty percent of all entries are Level B. Level B involves entries to areas where liquid agent is not present. As such, much less danger to personal safety is involved. B entries do not require the elaborate suiting-up of A entries, although considerable safety apparatus is still required. All B entries are monitored by Operations, but substantially less assistance is required from TSS. Such entries can involve a crew of varying size of two or more, and access is not limited to two hours. Level B entries could involve mixed groups of “anybody” in the same way that Level As do.

Assistance for A entry/re-entry is handled by TSS. Every individual “inside” is monitored by the control room. There is radio communication between the control room and those inside.

There are currently about 82 employees in Operations, including about 56 outside operators and 26 control room operators. In the future, during the operations phase, there will be 12 control room operators on each shift inside the control room. They will be operating the demilitarization system, the furnace system, or monitoring the support utility systems, or controlling demilitarization protective ensemble (DPE) entries (i.e., Level A entries) into the toxic area. At present, control room operators are monitoring the systems that were installed during the construction phase. They are verifying that the automation continuity works between the control room and the field instrumentation.

Outside operators currently are assigned to various buildings in the facility and are performing unspecified support functions for the system testing activities taking place in those buildings. During the operations phase, they will be the employees who receive the incoming shipments of munitions, unpack them, and place them on conveyor belts for processing.

Both control room and outside operators are fully trained by the Employer after hire, and at hire are required to have only a high school diploma or equivalent. Outside operators are paid between \$18.71 and \$19.93 per hour. Control room operators are salaried, and earn \$19.94 to \$20.94 per hour when the salary is converted to an hourly basis.

Maintenance is currently supporting, in some unspecified manner, activities involving the demilitarization disassembly equipment and conveyors in MDB. They are similarly engaged in building 389, the process utility building (PUB). They enter and exit the facility through the personnel and maintenance building (PMB), building 381, where they get their assignments each day.

Maintenance employees include electricians, instrument (I&C) technicians, machinery maintenance mechanics, and pipe fitters/welders. Each of those classifications requires at least four years related experience; some require a related AA degree; and welders/welders must have completed a state-approved apprenticeship program or have five years practical experience. Electricians and I&C technicians earn \$22.85 per hour; mechanics, welders, welders, and HVAC earn \$22.23 per hour. There are also tool room attendants who are unskilled and who are paid \$16.21 per hour.

The maintenance manager is Mike Daniels. Daniels reports to Phil Harness. Under Daniels are the positions of maintenance superintendent for each of the four crews (A, B, C, and D). Only the A and B spots are filled so far. Under each maintenance superintendent are an I&E supervisor and a mechanical supervisor. Instrument technicians and electricians report to the I&E supervisor; mechanics, welders, and HVAC report to the mechanical supervisor. There are about 49 skilled maintenance employees at present.

The main office location for TSS is currently in building 381 (PUB), which is where most of the equipment they are presently using for training is located. They are also currently doing “walk-downs” (undefined in the record) in the MDB, apparently in training for the entries that will be made into that building after the facility goes hot. After the facility goes hot, their main job duty will be suiting, unsuiting, and otherwise assisting other employees for entries. They will also hold “backup” positions for those “inside” and will work “inside” as well.

There are currently about eight TSS employees. They report to the A crew DSA lead, Scott Rouse, who in turn reports to DSA/MA supervisor Eric Kinnunen, who reports to technical support services manager Patrick Ward. Ward reports to Phil Harness. Wages for technical support services

employees range from \$18.71 to \$19.93 per hour. Technical support services DSA technicians are required to have a high school diploma or equivalent and a minimum of two years related or commercial experience is desired.

Conclusion as to Appropriate Unit.

A petitioner is entitled to the unit of its choice, provided it is *an* appropriate unit. Upon a full review of the record, I find and conclude that it is not appropriate to limit a unit to Operations employees.

In making a unit determination, the Board considers the Employer's organization along with the skills, duties, working conditions, supervision, and bargaining history, if any, but no one factor has controlling weight. *E. H. Koester Bakery Co.*, 136 NLRB 1006, 1009-11 (1962); *Airco, Inc.*, 273 NLRB 348 (1984).

The operations employees sought herein do not have the specialized skills required of the maintenance employees for hire. At hire, operations employees need only have a high school degree, while maintenance employees need relevant experience or training. TSS employment, however, requires only a high school degree as well. The primary job duties of the operations employees differ significantly from those of the technical support services employees and the maintenance employees, and thus their Employer-provided training differs in many respects.

On brief, the Employer asserts that operators and technical support services employees have the "same skills" and are interchangeable. Such assertion is an over-statement. The record does establish that employees in both operations and technical support services have or will receive hazmat (hazardous materials) training. There is testimony that some operators have successfully bid on jobs in technical support services, but there is no evidence with respect to whether this has occurred at Umatilla, and if so, how many operators were involved; or whether this happened only at Johnston Atoll, and when in the past.

There is testimony that every operator will be certified in all levels of personal protective equipment, and be able to serve as emergency backup or as a DPE entrant, and the same is true for TSS. There is testimony that operators have the same skills as technical support services personnel and will substitute for them as needed once the facility is operational, although this does not appear to be a routine situation. There is some evidence that operators may have, or may in the future have, some or all of the same skills as technical support services employees with respect to assisting entries, but there is no evidence that technical support services employees have any of the specialized skills which operators acquire through Employer-provided training.

The record clearly establishes that the primary job duties of operators differ and will differ from those of technical support services employees. *Currently*, operators are engaged in providing support functions to the systemization testing, while technical support services employees are training for future activities. Maintenance employees are also *currently* engaged in support functions for systemization; the evidence does not show that operators and maintenance employees are currently performing the same work side-by-side, however. There is no evidence as yet of any temporary interchange having occurred at Umatilla between operators and maintenance employees, or between operators and technical support services employees.

All three groups have similar working conditions in that they are all paid on an hourly basis (except control room operators who are salaried) and receive the same benefits. Their wages are, with minor exception, within a max of about \$4.00 per hour of each other: All Operations employees are paid between \$18.71 and \$19.36 per hour; all TSS employees are paid \$18.71; all Maintenance employees are

paid between \$22.23 and \$22.85. They all have identical benefits. The three groups are separately supervised up through the first three levels of supervision, but Operations, Maintenance and TSS managers all report directly to the Plant Manager (albeit so do multiple other department managers, none of whose departments are contended to belong in the unit).

There is no relevant collective bargaining history involving the employees sought herein. The Employer contends that both past history at the Umatilla facility and industry practice establish that the only appropriate unit is one including operations, maintenance and technical support services employees. There is no past history of any Board determination of the appropriate unit at the Umatilla facility.⁶ That stipulated unit agreement did not mature into any collective bargaining history, as the petitioner lost the election. The Employer has not cited any examples of units in the demilitarization industry, but instead relied on cases involving nuclear facilities. The Employer's Umatilla facility is not a nuclear facility; thus, I do not find nuclear industry cases particularly helpful.

Notwithstanding several multiple factors that lend some support to an Operations-only unit, I find that the operation of the facility is too integrated to permit such a unit, without also including TSS and Maintenance. It is clear that the plant cannot operate without the constant presence of Operations, Maintenance and TSS personnel. The facility operates 24/7/365; it does not shut down. The heart of the operation is the MDB. While MDB is fed and controlled by operations, constant work to maintain operation is needed, such as cleanup, repairs, adjustments and routine maintenance. This work can only be performed by entering the MDB. Such work can be performed by a 2-person Level A or a two-or-more Level B crew, either comprised of any assortment of Operations, TSS and/or Maintenance employees. Entry, especially Level A, requires close teamwork with TSS for suiting/de-suiting, backup by TSS, and scheduling/monitoring/control by Operations. The decision to have an entry, when, by whom and to do what, is a three-department collaboration. There will be about 7 A entries daily, each involving the interplay of at least 7 persons⁷, 365 days per year. In addition there are 4 times as many Level B entries⁸, involving coordination with Operations, some, lesser help from TSS for donning of protective gear, and miscellaneous combinations of crews. It would be artificial to draw a line around Operations under these circumstances.⁹

Based most heavily on the integrated operations of this non-stop operation, but also the common shifts, similar wages, similar work rules, common benefits and significant cross-training and common, ever-present hazard, I conclude that the Unit must include Operations, Technical Support and Maintenance. The total number of hours of integrated entry operations appears to be a significant percentage of the total work hours of the three combined departments, and a large amount¹⁰ in absolute terms as well. The integrated, inter-relational function is absolutely critical to the continuous operation of the MDB. Currently there are about 150 employees in the combined three departments; at full operation, it appears there will be on the order of 50 more. The groups performing A entries alone -- without adding

⁶ In prior case 36-RC-6000, involving a predecessor employer in the building phase, the parties agreed that an appropriate unit included all hourly employees. The only issues litigated in that case were whether a substantial and representative complement of employees were employed, and whether the medical secretary was a confidential employee. A stipulation by the parties as to the appropriate unit has no precedential value.

⁷ Two "insiders", two backups, two helpers to suit/de-suit and at least one Operations person.

⁸ 80% of the entries are Level B, 20% Level A.

⁹ The record also reflects significant sharing of employees now during the startup procedure, and future sharing during lengthy changeovers from one type of weapon to another.

¹⁰ Seven A entries per day at 4 hours each, times a minimum of 7 participants per entry, equals 196 hours daily, or the equivalent of 17 full, 12-hour shifts daily; or 71,500 hours annually.

in B entries -- will perform the equivalent of 17 shifts of work daily out of a total of about 100 worker shifts per day, in the highly integrated, work-sharing arrangement described above.¹¹

Supervisory status issue.¹²

At hearing, the parties stipulated that project manager Loren Sharp, plant manager Phil Harness, operations manager Mike Strehlow, assistant operations manager Joe Gonzales, A-shift superintendent Robert Walker, C-shift superintendent Clyde Braun, control room supervisors Rick Romero and Doug Wisheart, and area supervisors Kurt Petersen, Jeff McCanch, Lee Schmitt, and Tony Hood are supervisors within the meaning of the Act. I accept the parties' stipulation thereon.

The employees in dispute as to supervisory status are the lead operators, who are: John Lawhead and Thomas Pearce on A shift; Bill Adams, Ron Peters, and Rom McCarter on B shift; Don Holden and Bill Rill on C shift; and Lee Fraser and Terry Jones on D shift. The parties stipulated that none of the leads possesses independent authority to hire, fire, transfer, lay off, recall, promote, suspend, or reward employees.

At issue is the involvement of leads in the hiring process and any recommendations they make concerning hiring; their involvement in evaluations and the effect of those evaluations; their direction of the work of other employees; their adjustment of what may be minor grievances; and their involvement in and recommendations regarding minor discipline of employees.

It is the Employer's policy that at least two people interview a job candidate together. Sometimes, but not necessarily every time, at least one of the interviewers is a lead. (Any others would be conceded supervisors.) The interviewers each fill out a form evaluating the candidate. The interviewers also reach a consensus on whether the candidate should be recommended for hire. If they cannot agree, then the candidate is re-interviewed by someone else. Joe Gonzales, Assistant Operations Manager, makes the final decision on hiring. Some job candidates are interviewed solely by Gonzales.

Operations employees are currently being given quarterly evaluations by the leads. The purpose of such evaluations is to keep "on top" of any training or other issues. The evaluation is both a performance review and a career development plan. There are also annual reviews in which the leads participate in a similar manner. The evaluation forms do not provide for any recommendation by the lead for further action, such as reward or discipline. There is vague, unsupported testimony that the evaluations are related in some unspecified manner to merit pay increases granted by the Employer's corporate office.

Leads are paid a salary, rather than hourly wages, a distinction the Employer contends is a significant indicator of leads' supervisory status. However, I note that control room operators, not contended to be supervisors, are also paid a salary rather than an hourly wage.

The record does not firmly establish that at the present time leads are directing the work of any employees. Strehlow testified that the current priority in operations is training, and, further, that some operations employees have been assigned full-time to the systemization activities: three in demilitarization, two in furnaces, two in instrumentation. He said that while the leads are responsible for knowing where those employees are every day, they have no other involvement with them. Strehlow

¹¹ If there are relevant 200 employees spread over 4 shifts, there are about 50 in each of A, B, C and D. There will be thus two shifts, or 100 employees, daily.

¹² In view of my finding Petitioner's only unit to be inappropriate, the following discussion is moot. It is included, nevertheless, in event the Board were to reverse my unit finding on a Request for Review.

testified that hypothetically a lead would decide which individuals on his crew would be given which assignment according to the lead's estimation of the crew members' capabilities and training. However, there are no specific examples in the record of any operations lead at Umatilla having made any assignments on such basis, or even that any occasion for making such assignments has ever arisen at the Umatilla facility. All of the testimony regarding the leads' direction of work of employees is hypothetical, and appears to be based on witness speculation about what a lead might do in a given situation, rather than being grounded in any specific reality.

With respect to the leads' role in discipline, there is testimony that a lead might verbally counsel an employee regarding something like an attendance problem, and vague testimony that a lead can "initiate" written documentation for an attendance issue. The record is not clear if such a document would merely report facts, or contain a recommendation. There are no specific examples in the record of any operations lead at the Umatilla facility having disciplined any employee in any manner for any infraction. The testimony again appears to be based on the witness' speculation about what might happen or perhaps what he thought ought to happen, rather than any specific reality. There is no indication that records of verbal counseling would be kept in personnel files, or that they would have any specific impact in the event of future discipline. There is no record evidence that operations leads adjust grievances or even minor complaints of employees.

The burden of proving supervisory status falls upon the party asserting such status. *Kentucky River Community Care*, 532 U.S. 706 (2001). I conclude that the Employer has failed to meet its burden.

The record here does not establish that operations leads have authority to effectively recommend hire. When hiring recommendations or decisions are made collectively by a committee, participation in such committees does not establish supervisory status. *Fordham University*, 214 NLRB 971, 974 (1974).

The evidence regarding leads' authority to evaluate employees does not establish that the leads have statutory supervisory authority. Authority to evaluate is not among the statutory indicia of a supervisor. Thus, authority merely to evaluate employees, without more, is insufficient to establish supervisory status. *Quadrex Environmental Co.*, 308 NLRB 101 (1992); *Elmhurst Extended Care Facilities*, 329 NLRB No. 55 (1999). The record here is insufficient to establish that the leads make any recommendation that employees be rewarded or disciplined based on their evaluations, or that a particular score or ranking or rating or admonition results in a particular reward, or withholding of same, such as a raise or a bonus, or any discipline.

There is no substantial evidence in this record that the operations leads assign and direct the work of any employees. Nor is there any evidence that the operations leads discipline employees. The testimony on these matters is merely speculative and conclusionary. Mere inference or conclusionary statements without supporting evidence are insufficient to establish supervisory status. *Sears, Roebuck & Co.*, 304 NLRB 193 (1991); *Quadrex Environmental Company, Inc.*, 308 NLRB 101 (1992). It may well be that once the plant is in operation, the leads will have greater authority, but that is another matter for another day, if necessary. It would be inappropriate for me now to speculate about the future, where employees' Section 7 rights are at stake.

Thus, I conclude that on this record that the operations leads have not been shown to be supervisors within the meaning of the Act.

ORDER

In view of the fact that I have found Petitioner's unit not to be appropriate, and Petitioner is unwilling to participate in any election in any other unit, **IT IS HEREBY ORDERED** that the petition filed herein shall be, and it hereby is, dismissed.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street N.W., Washington, D.C. 20570. This request must be received by the Board in Washington by January 14, 2002.

DATED at Seattle, Washington, this 31st day of December 2001.

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